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C O N F I D E N T I A L LA PAZ 003080

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STATE FOR WHA/AND
TREASURY FOR SGOOCH
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E.O. 12958: DECL: 11/14/2016
TAGS: ECON EINV ENRG EPET BL
SUBJECT: HYDROCARBONS: A NATIONALIZATION IN NAME ONLY?

REF: LA PAZ 2967

Classified By: Ecopol Chief Andrew Erickson for reason 1.4 (e).

Summary

¶1. (C) A British Gas executive told Econoff that he thought the company's new operation contract (reftel) was equitable and would allow BG to recoup its investment and invest more in the future. Opposition leaders and leftist radicals agree that Bolivia's "nationalization" was in fact a nationalization in name only. Partially U.S.-owned Chaco was less optimistic about future investment prospects than BG and concerned about on-going negotiations with Bolivia's state-owned oil company, YPFB, in which YPFB seeks to gain majority ownership of the company. U.S.-owned Vintage Petroleum, a subsidiary of Occidental, said that it was pleased with its new contracts. Vintage was more optimistic about future investment prospects than Chaco, but agreed with Chaco that future sector development would depend significantly on YPFB's capacity, fairness, transparency, and control of corruption -- about which the companies have doubts. Hydrocarbons Minister Carlos Villegas told the Ambassador that several countries had expressed approval of the new contracts and that Bolivia's investment climate had improved. The Ambassador responded that Bolivia's investment environment had been tarnished by the use of the word "nationalization" and by sending troops into the gas fields and that this harm would be difficult to repair. Despite the fanfare and rhetoric, Bolivia's "nationalization" appears to have been more a renegotiation of contracts, albeit under intense pressure, than a traditional nationalization. End summary.

BG Says Contracts Are Equitable

¶2. (C) British Gas (BG) executive Carlos Siles told Econoff on November 7 that all of the hydrocarbons production companies operating in Bolivia had finalized their operating contracts with YPFB and that the GOB presented the 44 contracts to congress for approval on November 5. He expected that congress would approve the contracts within a few weeks. He said that he thought the contracts were equitable and would enable companies to recoup their investments. He explained that the companies would get greater returns with greater investment, providing incentives for the companies to invest. He said that in the initial period after an investment, the GOB take could be as low as 50 percent (direct hydrocarbons tax and royalties) plus general taxes, but would increase over time (with the additional amount going to YPFB) as companies recouped their investments. Siles feared that opposition political leaders might campaign that the contracts were not favorable to the state and that the companies were profiting excessively in order to reduce the MAS' popularity. Opposition party leader Tuto Quiroga confirmed Siles' fears in a meeting with the Ambassador on November 14, stating that the "nationalization" was in fact a "virtual nationalization" or a mere renegotiation of contracts, and he planned to criticize the "nationalization" as a doling out of "sweetheart deals" for certain companies. Former radical leftist Hydrocarbons Minister Andres Soliz Rada has already publicly criticized the "nationalization", claiming (accurately) that nationalization as a strict governmental takeover of company assets has not been accomplished.

¶3. (C) Siles thought that it would be possible for Bolivia to meet its recently contracted gas supply obligations to Argentina. He had heard rumors that some investors were interested in the pipeline that must be built in order to move this additional gas to Argentina. BG's contract did not contain a forced investment clause. Siles explained that after the pipeline was built, the companies would conduct profit calculations for providing certain amounts of gas to YPFB to sell to Argentina and that if they determined the operations would be profitable, they would sign supply contracts with YPFB, at which point they would take on the risk of providing certain quantities of gas to YPFB -- risk which they did not take on with the general operating contracts signed at the end of October.

Chaco: Worried About YPFB Take-Over

¶4. (C) Chaco's Vice President Jana Drakic was less upbeat about Chaco's contract and explained to Econoff on November 9 that Chaco had signed in order to recoup its investment, because of the appeal of the Argentine market, and because the company felt that it did not have a better option, as arbitration would likely be lengthy and would not pay in the end. In the contract, Chaco gave up the right to legal recourse specifically regarding the May 2005 hydrocarbons law and the transition to new contracts. However, Chaco still has the right to arbitration for future disputes. She said that the returns Chaco would get under the new contract are not favorable, as the government consolidated its 50 percent in royalties and direct hydrocarbons taxes and would take extra for YPFB based on a table of variables and formulas in Chaco's contract.

¶5. (C) Drakic explained that the company was concerned about the risks of YPFB having control over commercialization and the right to assign market share to the producers. Chaco's contract obliges the company, one of the countries largest producers of liquid petroleum gas (LPG), to sell to the internal market at significantly below-market prices. The producers, she explained, want to sell to the external market at higher export prices. She said that she thought it was possible for Bolivia to meet its export obligations to Argentina if YPFB was revamped into an efficient, transparent company with competent technical staff and political backing

-- a doubtful prospect. Chaco was also worried about the ongoing negotiations with YPFB, in which YPFB was seeking to gain 50 percent plus one of the shares of the company.

Vintage: Happy With Contract

¶6. (C) Vintage President Jorge Martignoni told Econoff on November 9 that he thought all of the companies had signed contracts within acceptable margins and that the contracts had slight variations. For example, he said that Vintage had agreed to cede legal recourse relating to contract migration, like Chaco, but that Total had negotiated to remove that clause. Vintage still has the right to arbitration on future disputes. Vintage signed its first operating contract on October 27 and a second contract for the Napuko field jointly operated with Pan-American on October 30, averting potential legal problems with Pan-American. Vintage President Jorge Martignoni told Econoff on November 9 that he was extremely pleased with the Napuko contract, in which Vintage had negotiated not paying any taxes for YPFB, but paying only the 50 percent royalties and direct hydrocarbons taxes required by the 2005 hydrocarbons law and general taxes, less value added tax rebates. He said that the resignation of radical Minister Soliz Rada had opened space for negotiation, enabling Vintage to retain the right to book its reserves as assets and maintain operating control without excessive interference by YPFB. He said the GOB had pledged to issue an incentives decree for producers with small fields which would give Vintage preferential market share with Argentina and provide compensation for liquid production for domestic use.

YPFB's Disorganization

¶7. (C) Martignoni lamented the lack of organization at YPFB, explaining that he had been asked to come to La Paz on November 3, two days before the contracts were presented to congress, to sign two revised annexes. He said that during the contract negotiations prior to the signing at the end of October, he had spent 26 hours straight at YPFB without food, water, or restroom access. Martignoni expressed concern that future sector development depended on YPFB's capacity, fairness, transparency, and control of corruption. He said that YPFB President Juan Carlos Ortiz was accessible and transparent, but he would need an equally competent team for YPFB to function smoothly, and with a salary cap of USD 1,750 per month, it would be difficult to attract such a team. Nevertheless, Martignoni was optimistic about sector development and said that he thought companies would invest enough for Bolivia to meet its export obligations -- as long as gas prices remain fairly high.

Minister: Improved Investment Climate?

¶8. (SBU) Hydrocarbons Minister Carlos Villegas told the Ambassador on November 8 that the government had fulfilled its promises to the Bolivian people and hoped to stimulate sufficient investment in the sector to meet its gas export obligations to Brazil and Argentina. He said that only 11 percent of Bolivia's gas fields have been explored. He explained that he would travel with President Morales to Europe at the end of November and later to New York to drum up investment. He said that a decree offering incentives for producers with small fields, a key decree for Vintage, is already defined and would be issued immediately after congress approves the contracts. He explained that the ministry's next step would be to negotiate ownership control over Chaco, Repsol, Petrobras' refineries, Transredes, and the Bolivian Hydrocarbons Logistics Company, as outlined in the GOB's May 2006 decree.

¶9. (SBU) Minister Villegas claimed that the GOB had received

calls from several countries, including Brazil, Spain, France, and England expressing approval of the contracts signed at the end of October. He said that Bolivia now has a more attractive investment environment. The Ambassador responded that Bolivia had tarnished its international image by using the word "nationalization" for what was actually something else and sending the troops into the gas fields, noting that Bolivia's investment climate would be difficult to repair. Minister Villegas responded that Bolivia had implemented a "different" nationalization, in which no companies were expelled, nothing was expropriated, and no indemnity was paid. He claimed that Bolivia was just following the world-wide tendency to change hydrocarbons rules and renegotiate contracts.

Comment

¶10. (C) Despite the fanfare and rhetoric, Bolivia's "nationalization" appears to have been more a renegotiation of contracts, albeit under intense pressure, than a traditional nationalization. The future development of the hydrocarbons sector seems unclear, with some companies (Brazil's Petrobras and Chaco) saying that they would stay to recoup their investments but no new investments would be made and other companies (Vintage and BG) being somewhat more optimistic, saying that Bolivia could possibly increase its production by the 50 percent required in the next few years to meet its export commitments to Argentina. Although Bolivia may have diminished its future investment prospects by imposing higher tax rates on the companies, by saying one thing ("nationalization") and doing another (renegotiating contracts), it has been able to guarantee current production and at the same time respond to overwhelming public demand for "nationalization," a demand which ousted two former presidents when it was unmet. End comment.
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